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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,902	02/28/2007	Alain Ballagny	279101US6PCT	6280
22850	7590	05/06/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER DUDNIKOV, VADIM				
ART UNIT 3663		PAPER NUMBER		
NOTIFICATION DATE 05/06/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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# Office Action Summary

**Application No.**

10/551,902

**Applicant(s)**

BALLAGNY ET AL.

**Examiner**

VADIM DUDNIKOV

**Art Unit**

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 20-38 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant is required under PCT Rule 13.1 to elect one of the following species for a fissile material of the nuclear fuel.

The species are as follows:

- Species a: fissile material is uranium as disclosed on page 6, lines13-15; (claim 23);
- Species b: fissile material is plutonium as disclosed on page 6, lines13-15; (claim 23);
- Species c: fissile material is americium as disclosed on page 6, lines13-15; (claim 23);
- Species d: fissile material is alloys or a combination of these elements as disclosed on page 6, lines13-15; (claim 23);

2. Upon election of one Species from a to d applicant is further required under PCT Rule 13.1 to elect one of the following species for wires of the nuclear fuel.

- Species A: wires having the same composition as disclosed on page 7, lines 14-15; (claim 27);
- Species B: wires having different compositions as disclosed on pages 7, lines 17-18; (claim 28);

3. Upon election of Species A or B applicant is further required under PCT Rule 13.1 to elect one of the following species for nuclear fuel.

- Species A1: elementary wires have identical diameter as disclosed on pages 8, lines 4-5; (claim 29);

- Species A2: elementary wires have different diameter as disclosed on pages 8, lines 6-7; (claim 30);

4. Upon election of Species A1 or A2 applicant is further required under PCT Rule 13.1 to elect one of the following species for nuclear fuel.

- Species B1: assembly of elementary wires has a braid form as disclosed on page 8, lines 8-9; (claim 31);

- Species B2: assembly of elementary wires has a strand form as disclosed on page 8, lines 10-11; (claim 32);

- Species B3: assembly of elementary wires is woven as disclosed on page 8, lines 14-15; (claim 32);

5. If group I is elected applicant is further required under PCT Rule 13.1 to elect one of the following species for the nuclear fuel producing.

The species are as follows:

- Species B1: processing only one assembly as disclosed on page 11, lines 5-6; (claims 36, 37);

- Species B2: processing plural assemblies as disclosed on page 11, lines 13-15; (claims 38);

6. Upon election of Species B1 applicant is further required under PCT Rule 13.1 to elect one of the following species for nuclear fuel producing.

- Species C1: assembly is formed by rolling as disclosed on page 11, lines 8-9; (claim 36);
- Species C2: assembly is shaped by drawing through a drawplate as disclosed on page 11, lines 7-8; (claim 36);
- Species C3: assembly is shaped by roll burnishing as disclosed on page 8, lines 10-11; (claim 37).

7. Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

8. The claims are deemed to correspond to the species listed above in the following manner:

Species a recited in claim 23;

Species b recited in claim 23;

Species c recited in claim 23;

Species d recited in claim 23;

Species A recited in claim 27;

Species B recited in claim 28;

Species A1 recited in claim 29;

Species A2 recited in claim 30;

Species B1 recited in claims 36-37;

Species B2 recited in claim 38;

Species C1 recited in claim 36;

Species C2 recited in claim 36;

Species C3 recited in claim 37.

The following claim(s) are generic: claim 20, claim 23 and claim 35.

9. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: because the special technical feature of species a is "fission material is uranium", while the special technical feature of species b is "fission material is plutonium", the special technical feature of species c is "fission material is americium", the special technical feature of species A is "nuclear fuel with wires having the same composition as disclosed on page 7, lines 14-15", while the special technical feature of species B is "nuclear fuel with wires having the same composition as disclosed", different of species A. Since the special technical feature of species A is not present in the claims drawn to species B and the special

technical feature of species B is not present in the claims drawn to species A, unity of invention is lacking.

10. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

11. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vadim Dudnikov whose telephone number is 571 270 1325. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571 272 6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VD. 4/27/09.

/Rick Palabrica/

Primary Examiner, Art Unit 3663